IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

CRP.No. 2768 of 2000(E)

CC.263/1973 of TALUK LAND BOARD, CHITTUR

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REVN. PETITIONER:

PACHAYAMMAL KOUNDACHI, WIDOW OF CHINNASWAMY KOUNDER, RESIDING AT MUTTIMAMPALLAM, NATTUKAL P.O., VALIYAVALLAMPATHY VILLAGE, CHITTUR TALUK, PALAKKAD DIST.

BY ADV. SRI.V.CHITAMBARESH
SRI.S.KRISHNA PRASAD

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TALUK LAND BOARD, CHITTUR, REPRRESENTED BY ITS CHAIRMAN.

3. THE TAHSILDAR, CHITTUR TALUK, PALAKKAD DISTRICT.

4. VALLAYAMMA, WIDOW OF G.KANDASWAMY KOUNDAR, RESIDING AT MUTTIMAMPALLAM, VALIYAVALLAMPATHY VILLAGE, CHITTUR TALUK, PALAKKAD DISTRICT.

R1 TO R3 BY GOVERNMENT PLEADER SRI SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP.NO.5614/2000 IN C.R.P.2768/2000

DISMISSED

19/2/2007 Sd/- P.R.RAMAN, JUDGE.

P.R.RAMAN,J.

C.R.P.NO.2768 OF 2000

Dated this the 19th day of February, 2007

O R D E R

Petitioner claiming herself to be a tenant sought to exclude an extent of 1.18 acres of land in Sy.No.304/1 of Valiyavallampathy Village in Chittur Taluk from the account of the declarant in a ceiling case, C.C.No.263/73. It is her specific contention that the said extent of land was outstanding in possession with her as a tenant prior to 1/1/1970 and while in possession the landlord transferred her title and interest if any by executing a sale deed of the year 1976. The Taluk Land Board however did not agree with the contention so raised, as there is nothing to show that the petitioner was in possession of the land as a tenant prior to 1/1/1970. The

document in question was also not produced. It is the contention of the petitioner that even if she is not a tenant entitled to fixity of tenure by virtue of her possession as claimed by her prior to 1/1/1970, at any rate, when she has purchased the property by paying valid consideration by a registered document No.878/76 of the Chittur Sub Registry and such extent of the land covered by such transaction is to be excluded, she will be a deemed tenant by the newly inserted Section 7E of Act 21/06.

2. Heard both sides.

3. In view of the subsequent inserted Section 7E by Act 21/2006 which opens with a non-obstante clause, if the petitioner is able to establish that she does not hold more than four hectares of land, then such extent is to be excluded and she will be deemed to be as a tenant for that purpose. In this regard it

is also to be noticed that Section 84 was also suitably amended to give effect to the amendment brought out by Section 7E by inserting Section 4. In view of the non-obstante clause, the petitioner is entitled to raise his contention and the Taluk Land Board is bound to reopen the case for consideration on such contention.

3. In the circumstances, the order of the Taluk Land Board is set aside and the matter is remanded to the Taluk Land Board, Chittur to consider whether the petitioner is entitled to the benefit of the newly inserted Section 7E by Act 21/2006 and dispose of the matter in accordance with law, after hearing the parties.

C.R.P. is allowed by way of remand.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.2768 OF 2000

O R D E R

19th February, 2007